THE HON'BLE Mr. JUSTICE GODA RAGHURAM

FRIDAY, THE 24th DAY OF FEBRUARY, 2006

W.P.No. 3590 of 2006

Between:-

Shaik Abdul Gaffoor

--Petitioner

And

The Chief Engineer, Zone, APSPDCL, Near P.W.D. Grounds, Opp: Rythu Bazar, Vijayawada and two others.

--Respondents

THE HON'BLE MR. JUSTICE GODA RAGHURAM

W.P.No. 3590 of 2006

Oral order:-

The writ petition is directed against the order dated 31-01-2006 of the 1st respondent/appellate authority directing the petitioner to pay 50% of the finally assessed amount – assessed by the 2nd respondent in proceedings dated 21-11-2005. The 2nd respondent after a provisional assessment order and show cause notice, on receipt of the explanation from the petitioner, considered and passed final assessment order dated 21-11-2005 concluding that the petitioner had pilferred energy and determining the value of the energy pilferred and other incidental charges at Rs.1,50,985-00. Against the said order, the petitioner preferred an appeal dated 23-01-2006, unaccompanied by any amounts paid.

Section 127 (2) of the Electricity Act, 2003 (Act No. 36 of 2003) (for short 'the Act') ordains that no appeal against an order of assessment under sub-section (1) of Section 127 shall be entertained unless an amount equal to one third of the assessed amount is deposited in cash or by way of bank draft with the licensee and documentary evidence of such deposit has been enclosed along with the appeal.

In the light of the above mentioned statutory provision, the impugned order of the 1st respondent directing the petitioner to pay 50% of the finally assessed amount is clearly illegal and in transgression of the statutory provisions. The petitioner's appeal instituted unaccompanied by the deposit of one third of the finally assessed

amount is also not maintainable.

In the circumstances above and in the light of the statutory position, the impugned order of the 1st respondent dated 31-01-2006 is set aside. The petitioner's appeal may be considered on merits, if he now deposits one third of the finally assessed amount in accordance with the provisions of Section 127 (1) of the Act within one week from today. If the petitioner fails to deposit the said amount within the aforesaid period, the 1st respondent may reject the appeal as not properly instituted. On the petitioner depositing one third of the finally assessed amount within the period aforesaid, the respondents are directed to forthwith restore the supply of energy to the petitioner's premises.

The writ petition is accordingly disposed of. No costs.

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GODA RAGHURAM, J

Date: 24-02-2006

Pvks/*

Nb: Furnish c.c. in three days.

B/o pvks/*